

CM Nos. 13564-CWP, 12421-CWP and 12299-CWP of 2017 in/and
CWP Nos. 4294 of 2017 (O&M) and other connected cases -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CM Nos. 13564-CWP,
12421-CWP and 12299-CWP
of 2017 in/and
CWP No. 4294 of 2017 (O&M)

Date of Decision: 20.09.2017

Kanta Devi

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

2. CWP No. 20094 of 2017

Naresh Kumar

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

3. CWP No. 5353 of 2017

Pardeep Kumar and others

.....Petitioners

Vs.

State of Haryana and others

.....Respondents

4. CWP No. 5717 of 2017

Deepika Malik and others

.....Petitioners

Vs.

State of Haryana and others

.....Respondents

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5. CWP No. 9411 of 2017

Ajay Mehta

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

6. CWP No. 3743 of 2017

Shivaji and others

.....Petitioners

Vs.

State of Haryana and others

.....Respondents

7. CWP No. 14399 of 2017 (O&M)

Asha Rani and others

.....Petitioners

Vs.

State of Haryana and others

.....Respondents

8. CM No. 12416-CWP-2017 in/and
CWP Nos. 1555 of 2017

Shlesh Kumar and others

.....Petitioners

Vs.

State of Haryana and others

.....Respondents

9. CWP No. 5940 of 2017

Shashi Bhushan and another

....Petitioners

VS.

State of Haryana and others

10. CWP No. 10486 of 2017

Munesh Kumari

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

11. CWP No. 10592 of 2017

Navinta and others

.....Petitioners

Vs.

State of Haryana and others

.....Respondents

12. CWP No. 15245 of 2017

Shikha Chahal

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

13. CWP No. 7738 of 2017

Sunita Devi

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

14. CWP No. 11990 of 2017

Rekha Rani

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. P.R. Yadav, Advocate, for the petitioner (s).
(in CWP Nos. 4294 and 3743 of 2017).

Mr. Sunil K. Nehra, Advocate,
for the petitioner (s) (in CWP Nos. 1555, 5717, 5940, 5353, 9411,
14399 and 11990 of 2017).

Mr. Kamal Singh, Advocate,
for the petitioner (in CWP No. 20094 of 2017).

Mr. Ashok Bhardwaj, Advocate,
for the petitioner (in CWP No. 10486 of 2017).

Ms. Kiranjit Kaur, Advocate, for
Mr. Rajender Singh Malik, Advocate,
for the petitioner (in CWP No. 15245 of 2017).

Mr. Arun William, Advocate,
for the petitioner (in CWP No. 10592 of 2017).

Mr. S.S. Kharb, Advocate,
for the petitioner (in CWP No. 7738 of 2017).

Mr. Hitesh Pandit, Addl. A.G., Haryana.

Mr. K.K. Gupta, Advocate,
for the Board of School Education Haryana.

Mr. Jagbir Malik, Advocate,
for the applicant/intervener (in CM No. 13564-CWP-2017 in
CWP No. 4294-CWP-2017).

Mr. Jasbir Singh Mor, Advocate,
for the applicant/intervener
(in CM No. 12421-CWP-2017 in CWP No. 4294-CWP-2017 and
CM No. 12416-CWP-2017 in CWP No. 1555-CWP-2017).

Mr. Pardeep Sehrawat, Advocate,
for the applicant/intervenor (in CM No. 12299-CWP-2017 in
CWP No. 4294 of 2017).

AMOL RATTAN SINGH, J. (ORAL)

**CM Nos. 13564-CWP, 12421-CWP and 12299-CWP of 2017 in
CWP Nos. 4294 of 2017 and
CM No. 12416-CWP-2017 in CWP No. 1555 of 2017**

By these applications, the applicant (s) seek to be impleaded as respondent (s) in CWP No. 4294 of 2017 and CWP No. 1555 of 2017, on the ground that they are candidates who had applied for the posts for PGT (Political Science), pursuant to the advertisement in the selection process in question and they having qualified the HTET/STET exam. They wish to oppose the contention of the petitioners, that those who have not qualified the aforesaid exam be also allowed to participate in the selection process, by interpreting the notifications of the Haryana Government dated 02.07.2012 and 12.09.2014, in their favour.

By the first notification, Rule 19-A of the Haryana State Education School Cadre (Group-B) Service Rules 2012 was inserted, and by the 2nd the said rule was amended. By the first, as a one time measure, exemption from having passed the HTET/STET was granted to candidates taking part in the selection processes that were initiated for the first time after the Rules of 2012 took effect, provided that they cleared the said test up-till 01.04.2015.

By the 2nd amendment, made in the year 2014, the said date was extended to 01.04.2018, i.e. those who took part and were selected in the selection process that was initiated in the year 2012, did not need to have passed the HTET/STET at the time of selection, but were thereafter required to pass it (after being inducted into service), up-till 01.04.2018.

The applications are allowed and the amended memo of parties in CWP No. 1555 of 2017 is ordered to be taken on record.

However, since the amended memo of parties annexed with these three applications (in CWP No. 4294 of 2017), is only 'catering' to the applicants in each of these applications, the Registry is directed to add all the persons now ordered to be impleaded as respondents, in order of receipt of the applications, at the end of the current array of respondents.

CWP No. 4294 of 2017 and other connected cases

By these petitions, as already noticed, the petitioners are seeking that their candidature for appointment for the post of PGTs (Post Graduate Teachers) in various subjects be considered by the respondent-Haryana Staff Selection Commission, even though they have not qualified the Haryana Teachers Eligibility Test/State Teachers Eligibility Test, up-till the date of the interviews, by which time they were required to have passed the said test, as stipulated in the advertisement (Annexure P-1 with CWP No. 4294 of 2017).

It is necessary to notice here that the said test is an essential qualification to be passed as per the notified Rules of 2012.

The contention of the petitioners, however, is that even as per the reply now filed by the respondent Board of School Education, Haryana, the STET/HTET at the level of Lecturers/PGTs was held in the year 2008, twice in the year 2009, once in the year 2011 and thereafter in June 2013, February 2014 and last on 18.06.2016.

It is further contended that the test is mandatorily to be held at least once a year as per the guidelines issued by the National Council for Teachers Education (NCTE), a copy of which is annexed as Annexure P-5 with the petition, seen to be dated 11.02.2011.

However, as per the dates given hereinabove, the test at the level of Lecturers/PGTs was not conducted either in the years 2010, 2012 or in the year 2015.

A perusal of the reply filed by the Board of School Education Haryana (respondent No. 3 in CWP No. 4294 of 2017) shows that as a mater of fact, the exam was held twice in the year 2009 first on 25.07.2009 and thereafter on 19.12.2009.

Mr. P.R. Yadav, learned counsel appearing for the petitioner (s), submits that simply because it was held in December 2009 again, would not obviate the need to hold the test again in the year 2010, the stipulation in the guidelines issued by the NCTE being that it must be held at least once annually.

A further perusal of the said reply shows that for the year 2012-13 (obviously academic year), the test was held in June 2013 as already noticed, and for the academic year 2013-14 in February 2014.

However, as regards the academic year 2014-15, the test at the level of Lecturers/PGTs was postponed to 18.06.2016. Though no reason thereof has been given in the reply of the Board, learned counsel on both sides are *ad idem* that the postponement occurred due to the fact that when the test was held for the first time in November 2015, it was cancelled on account of the question papers having leaked out and thereafter, though it was scheduled to be held in February 2016, it had to be postponed due to the law and order situation prevailing at that point of time.

It is also seen that the HTET has not been held for the years 2015-16 or 2016-17 till date.

Learned counsel for the respondent-Board has produced in Court today, a communication from the Director Secondary Education, Haryana, addressed to the Secretary, Board of School Education, Haryana, dated 13.09.2017, that the Haryana Teachers Eligibility Test 2016 should be conducted by the Board in the month of November 2017.

The petitioners contend that if they are not allowed to participate in the selection process which commenced with the advertisement Anneuxre P-1 dated 28.06.2015, with the last date for submission of application forms being 21.09.2015 (later extended to 12.10.2015), they would be prejudiced as they would

have wholly missed one opportunity of appearing in the said test.

Mr. Yadav, learned counsel for the petitioner (s) has cited judgments of this Court in Antim Kumari vs. State of Haryana and others decided on 29.04.2015, along with a bunch of writ petitions, and in Parminder Pal and others vs. State of Punjab and others, (CWP No. 19652 of 2012) decided on 19.07.2013.

He specifically submits that in Antim Kumaris' case a concession was given by the State that it would consider the candidature of even those persons who had cleared the HTET after the cut off date, as regards the selection for the year 2012.

Mr. Hitesh Pandit, learned Additional Advocate General, however submits that even in that case some persons have filed an application seeking recalling of the that order in which notice has been issued.

Though simple issuance of notice would not change the current position as it is, however, even so, on merits, in the opinion of this Court, the petitioners having applied for the posts in question, pursuant to an advertisement issued in the year 2015, with the last date of submission of application forms being 12.10.2015 and the State still having granted an opportunity to all candidates to clear the HTET up-till the date of interview, in view of the fact that the examination for the year 2014-15 could not be conducted till the last date, the petitioners have no legs to stand on, as regards this selection process at least.

This would be especially so in view of the fact that the HTET for the year 2014-15 was admittedly held in the month of June 2016, with the result declared in July 2016, and interviews not having commenced for any of the posts in question till 30.09.2016. Thus the petitioners had ample opportunity to pass the test, even during the current selection process.

Simply because a one time concession was made by the State extending the transitory provision provided in Rule 19-A of the aforesaid Rules of 2012, that cannot be held to enure for all time to come, or keep getting extended year to year.

Learned counsel for the petitioner (s) has very heavily relied upon the notification of the Government dated 12.09.2014, extending the date for clearing the HTET upto 01.04.2018, as regards those who have already been selected in the selection process of 2012.

The contention therefore is that if the aforesaid selected persons can be given relaxation by the State for clearing the examination even up-to the year year 2018, with them already having been granted that concession once up-to 31.04.2015, vide the notification dated 12.07.2012, there would be no reason for not granting the same concession to the petitioners.

Whereas that would be an attractive argument otherwise, however, the transitory provision, i.e. Rule 19-A, being specific to one selection after the notification of the 2012 Rules, and the said provision for extension for clearing the examination being in respect of those appointees who were given such appointment pursuant to the first selection held after the notification of the rules, the two parameters cannot be compared at all, the selection in question being not the first but the second selection after the notification of the aforesaid rules.

Learned counsel for the petitioners has at this stage again submitted that in the case of some of the petitioners in these petitions (other than the one he is specifically appearing for, i.e. CWP No. 4294 of 2017), are those who are competing for appointment as PGTs in subjects for which such posts have been advertised for the first time after the notification of the 2012 Rules

Learned State counsel has submitted that in the case of such candidates, in terms of Rule 19-A, the exemption from passing the HTET upto 31.03.2018 has already been provided.

Consequently, the State is held to that statement which in any case is in terms of the provisions of Rule 19-A.

In view of the aforesaid discussion, finding no merit in these petitions, they are consequently, dismissed.

At this stage, Mr. Yadav has submitted that the Board of School Education, Haryana, has within the past fortnight announced a re-evaluated result of the HTET held in June 2016, by which some of the candidates who are participating in the selection process in question, have cleared the HTET.

If that is so, obviously the re-evaluation would relate back to the test held in June 2016, and those who have cleared the test, shall be considered as eligible for participating in the selection processes in question, by the respondent-Commission and the State.

September 20, 2017
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes